

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.9765 OF 2021

**ANIL TUKARAM WACKCHAURE
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS
SECRETARY AND OTHERS**

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Advocate for the Petitioner : Shri Tarde Sambhaji B.
AGP for Respondents 1 and 2 : Ms.R.P. Gaur
Advocate for Respondents 3 and 4 : Shri K.S. Bhale h/f
Ms.S.M.Zaware

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**CORAM : RAVINDRA V. GHUGE
&
S.G. DIGE, JJ.**

DATE :- 07th April, 2022

Per Court :-

1. Leave to add the prayer clause with regard to the order of the Additional Divisional Commissioner, Nashik, dated 15.09.2017. Addition be carried out forthwith.

2. We have heard the strenuous submissions of the learned advocates for the petitioner and respondent Nos.3 and 4 and the learned AGP on behalf of respondent Nos.1 and 2.

3. Considering the order that we are passing, we need not advert to the entire submissions of the learned advocates. The respondents contend that this petition has been filed belatedly. The order dated 12.02.2015 passed by the Chief Executive

Officer, Zilla Parishad, Ahmednagar and the order of the Additional Divisional Commissioner dated 15.09.2017, are challenged in this petition filed on 15.08.2021.

4. It is undisputed that the petitioner has been imposed with the punishment of stoppage of two annual increments, permanently. The Honourable Supreme Court has taken the view in *Kulwant Singh Gill vs. The State of Punjab and others, 1991 Supp (1) SCC 504*, that the stoppage of one annual increment permanently is a major punishment and a departmental enquiry is mandatory.

5. In the case in hand, the punishment imposed is of stoppage of two annual increments permanently. As no departmental enquiry has been conducted, apparently this punishment would not be sustainable. However, the right of the employer to conduct a departmental enquiry to prove the charges against the petitioner, which are of such magnitude that they are likely to attract a major punishment, cannot be taken away.

6. In view of the above, this Writ Petition is partly allowed. The impugned order passed by the Chief Executive Officer, Zilla Parishad, Ahmednagar, dated 12.02.2015 and the order dated 15.09.2017 passed by the Additional Divisional

Commissioner, Nashik, stand quashed and set aside.

7. In this backdrop, we are issuing the following directions:-

(a) The petitioner shall deposit an amount of Rs.5000/- (Rupees Five Thousand) as costs for the delay caused, with the office of the Zilla Parishad, Ahmednagar, on or before 30.04.2022.

(b) The Chief Executive Officer, Zilla Parishad, Ahmednagar, is at liberty to follow the due process as is laid down in law for initiating a departmental enquiry against the petitioner with regard to the charges on the basis of which the impugned order of punishment was passed.

(c) Needless to state, after the departmental enquiry is concluded, the Chief Executive Officer would be at liberty to award commensurate punishment to the petitioner, if the charges levelled upon him are held to be proved by the Enquiry Officer.

(d) The petitioner shall cooperate in the departmental enquiry and shall ensure that the enquiry is not delayed on account of his conduct.